

Decision _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Order Instituting Rulemaking to Implement
Biomethane Pilot Projects to Demonstrate
Interconnection to the Common Carrier
Pipeline System in Compliance with SB 1383.

Rulemaking 17-06-015

**DECISION GRANTING COMPENSATION TO THE LEADERSHIP COUNSEL
FOR JUSTICE AND ACCOUNTABILITY
FOR SUBSTANTIAL CONTRIBUTION TO DECISION 18-08-015**

Intervenor: Leadership Counsel for Justice and Accountability	For contribution to Decision (D.) 18-08-015
Claimed: \$6,657.50	Awarded: \$6,587.50
Assigned Commissioner: Clifford Rechtschaffen	Assigned ALJ: Michelle Cooke

PART I: PROCEDURAL ISSUES

A. Brief description of Decision:	<p>A Proposed Decision (Proposed Decision) on Establishing Implementation and Selection Framework for Implementing Dairy Biomethane Pilots Required by SB 1383 (Framework for Implementing Dairy Pilots) was issued on November 9, 2017.</p> <p>On November 28, 2017 Community Alliance for Agroecology, Center on Race, Poverty & the Environment, and Leadership Counsel for Justice and Accountability filed comments in response to the Proposed Decision requesting several changes to the Proposed Decision including exclusion of gathering lines from cost recovery from rate payers, improved data gathering parameters, and enhanced mitigation requirements. The Decision on the Framework for Implementing Dairy Pilots was issued on December 14, 2017 acknowledging and addressing comments submitted by Community Alliance for Agroecology, Center on Race, Poverty & the Environment, and Leadership Counsel for Justice and Accountability and rejected the organizations' request to exclude gathering lines from cost recovery. The Decision stated that, for the limited purposes of the dairy biomethane pilots developed pursuant to the Health & Safety Code section 39370.7, the Decision allows, "cost recovery [from ratepayers] of the biogas collection lines owned by the dairy biomethane producers." (Decision, at p. 7.) The Decision explains that this recovery is consistent with the language and intent of SB 1383. (Decision, at pp. 7, 20.)</p> <p>Community Alliance for Agroecology, Center on Race, Poverty & the Environment, and Leadership Counsel for Justice and Accountability filed an application for rehearing on January 17, 2018, alleging that that the Commission erred "by including gathering lines within the meaning of pipeline infrastructure, thus requiring ratepayers to subsidize the cost of dairy biomethane production." (App. Rehg., at p. 5.) The application was made based on the reasoning that such recovery is not authorized by the statute, and is inconsistent with the Commission's longstanding position on gas gathering costs.</p> <p>The Commission considered the arguments presented by Leadership Counsel, CAFA and CRPE, but denied rehearing in Decision 18-08-015, issued on August 13, 2018.</p>
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B. Intervenor must satisfy intervenor compensation requirements set forth in Pub. Util. Code §§ 1801-1812¹:

	Intervenor	CPUC Verification
Timely filing of notice of intent to claim compensation (NOI) (§ 1804(a)):		
1. Date of Prehearing Conference:	n/a	
2. Other specified date for NOI:	October 21, 2017	Verified
3. Date NOI filed:	October 19, 2017	Verified
4. Was the NOI timely filed?		Yes
Showing of eligible customer status (§ 1802(b) or eligible local government entity status (§§ 1802(d), 1802.4):		
5. Based on ALJ ruling issued in proceeding number:	R. 15-03-010	Verified
6. Date of ALJ ruling:	October 18, 2016	Verified
7. Based on another CPUC determination (specify):		
8. Has the Intervenor demonstrated customer status or eligible government entity status?		Yes
Showing of “significant financial hardship” (§1802(h) or §1803.1(b)):		
9. Based on ALJ ruling issued in proceeding number:	R. 15-03-010	Verified
10. Date of ALJ ruling:	October 18, 2016	Verified
11. Based on another CPUC determination (specify):	In R.15-15-010, the ALJ made a preliminary finding of significant financial hardship on October 18, 2016. The Commission held that Leadership Counsel complied with ALJ guidance resulting in a final finding of significant financial hardship in Decision 18-01-019, issued on January 19, 2018.	Verified
12. Has the Intervenor demonstrated significant financial hardship?		Yes

¹ All statutory references are to California Public Utilities Code unless indicated otherwise.

Timely request for compensation (§ 1804(c)):		
13. Identify Final Decision:	D 18-08-015	Verified
14. Date of issuance of Final Order or Decision:	August 13, 2018	August 9, 2018
15. File date of compensation request:	October 8, 2018	Verified
16. Was the request for compensation timely?		Yes

PART II: SUBSTANTIAL CONTRIBUTION

A. Did the Intervenor substantially contribute to the final decision (*see* § 1802(j), § 1803(a), 1803.1(a) and D.98-04-059):

Intervenor's Claimed Contribution(s)	Specific References to Intervenor's Claimed Contribution(s)	CPUC Discussion
1. Outreach and engagement of disadvantaged communities.	Attendance of public meeting on July 10, 2017 to represent interests of San Joaquin Valley disadvantaged communities.	Verified
2. Inform scoring criteria and project evaluation for pilot projects to ensure a fair distribution of pilot benefits, cost impacts, environmental impacts, social impacts, health impacts, and economic impacts on disadvantaged communities, and compliance with applicable rules, regulations, and laws.	<p>On November 29, 2017, Leadership Counsel submitted joint comments on the proposed decision that had been issued on November 29, 2017. The joint comments included requests not to fund costs of “gathering lines” in pilots, require additional reporting and monitoring, and that the proposed decision permitted increased air pollution and failed to protect disadvantaged communities in the San Joaquin Valley.</p> <p>Decision 17-12-004, issued on December 14, 2017, took these comments into consideration and made limited changes to the “thoughtful” comments on monitoring and reporting requirements. (<i>See</i> D.17-12-004 at p. 15.) The Decision did not address the joint commenters’ concern regarding “gathering lines.”</p> <p>In response to a decision issued on December 14, 2017, Leadership Counsel, Community Alliance for</p>	Verified

	<p>Agroecology, and Center on Race, Poverty & the Environment filed an application for rehearing of Decision 17-12-004, contending that “gathering lines” do not qualify as recoverable pipeline infrastructure costs.</p> <p>The Commission considered the arguments presented by Leadership Counsel, CAFA and CRPE, but denied rehearing in Decision 18-08-015, issued on August 13, 2018.</p>	
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B. Duplication of Effort (§ 1801.3(f) and § 1802.5):

	Intervenor’s Assertion	CPUC Discussion
a. Was the Public Advocate’s Office of the Public Utilities Commission (Cal PA) a party to the proceeding?²	Yes, Limited Party Status	Verified
b. Were there other parties to the proceeding with positions similar to yours?	Yes	Verified
c. If so, provide name of other parties: Community Alliance for Agroecology Center on Race, Poverty & the Environment		Verified
d. Intervenor’s claim of non-duplication: Leadership Counsel coordinated with other parties to avoid duplication, submitting comments on the proposed decision and an application for rehearing jointly with the above-mentioned parties. The communities and interests Leadership Counsel represents in this proceeding are complimentary but distinct from those represented by Public Advocates, CAFA and CRPE, as detailed in the notice of intent.		Agreed, LCJA did not engage in excessive duplication for this proceeding

PART III: REASONABLENESS OF REQUESTED COMPENSATION

A. General Claim of Reasonableness (§ 1801 and § 1806):

	CPUC Discussion
a. Intervenor’s claim of cost reasonableness: The decisions in this proceeding will impact which biomethane pilots are funded, and more	Verified

² The Office of Ratepayer Advocates was renamed the Public Advocate’s Office of the Public Utilities Commission pursuant to Senate Bill No. 854, which the Governor approved on June 27, 2018.

importantly, what projects are funded in the future based on the results of the pilot projects. This will have a significant impact on disadvantaged communities which are disproportionately impacted by poor air and water quality. The costs claimed here are reasonable in the context of the need to ensure that the interests of disadvantaged communities are properly represented in this proceeding.	
b. Reasonableness of hours claimed: Work was delegated internally to ensure the level of experience was appropriate for the assigned tasks and reduce internal duplication of work. Additionally, the total hours billed by Leadership Counsel in this proceeding came in well under our anticipated budget set forth in the notice of intent.	Verified
c. Allocation of hours by issue: <ul style="list-style-type: none"> Inform and Evaluate pilots and policies with respect to environmental, health, social, and economic impacts on Disadvantaged Communities – 50% Informing pilots and related policies to reduce or eliminate cost burdens to low-income residents, focused specifically on cost of gathering lines: 50% 	Verified

B. Specific Claim:*

CLAIMED						CPUC AWARD		
ATTORNEY, EXPERT, AND ADVOCATE FEES								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate \$	Total \$
Attorney Phoebe Seaton	2017	7.2	\$325	Resolution ALJ-352	\$2,437.50	7.2	\$325	\$2,340.00 [A]
Attorney Phoebe Seaton	2018	5.5	\$325	Resolution ALJ-352	\$1,787.50	5.5	\$330	\$1,815.00 [B]
Attorney Michael Claiborne	2018	4	\$315	Resolution ALJ-352	\$1,260.00	4	\$315	\$1,260.00
Advocate Nikita Daryanani	2017	2.5	\$170	Hourly Rate Chart	\$425.00	2.5	\$170	\$425.00
Subtotal: \$5,910.00						Subtotal: \$5,840.00		

OTHER FEES								
Describe here what OTHER HOURLY FEES you are Claiming (paralegal, travel **, etc.):								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Paralegal Olivia Faz	2017	0.7	\$150	Hourly Rate Chart	\$105.00	0.7	\$150	\$105.00
Paralegal Olivia Faz	2018	0.5	1\$50	Hourly Rate Chart	\$475.00	0.5	\$150	\$75.00
Subtotal: \$180.00						Subtotal: \$180.00		
INTERVENOR COMPENSATION CLAIM PREPARATION **								
Item	Year	Hours	Rate \$	Basis for Rate*	Total \$	Hours	Rate	Total \$
Director of Operations Kaylon Hammond	2018	2.6	\$85	Hourly Rate Chart	\$221.00	2.6	\$85	\$221.00
Michael Claiborne, Attorney	2018	2.2	\$157.50	Hourly Rate Chart	\$346.50	2.2	\$157.50	\$346.50
Subtotal: \$567.50						Subtotal: \$567.50		
TOTAL REQUEST: \$6,657.50						TOTAL AWARD: \$6,587.50		

ATTORNEY INFORMATION			
Attorney	Date Admitted to CA BAR³	Member Number	Actions Affecting Eligibility (Yes/No?) If "Yes", attach explanation
Phoebe Seaton	November 2005	238273	No
Michael Claiborne	November 2011	281308	No

³ This information may be obtained through the State Bar of California's website at <http://members.calbar.ca.gov/fal/MemberSearch/QuickSearch> .

C. Attachments Documenting Specific Claim and Comments on Part III:

Attachment or Comment #	Description/Comment
1	Certificate of Service
2	Time Tracking Spreadsheet
3	LCJA Staff Resumes

D. CPUC Comments, Disallowances, and Adjustments

Item	Reason
[A]	Totals for Phoebe Seaton for 2017 adjusted
[B]	2.3% cola applied to Phoebe Seaton for 2018

PART IV: OPPOSITIONS AND COMMENTS

Within 30 days after service of this Claim, Commission Staff or any other party may file a response to the Claim (*see* § 1804(c))

A. Opposition: Did any party oppose the Claim?	No.
B. Comment Period: Was the 30-day comment period waived (<i>see</i> Rule 14.6(c)(6))?	Yes.

FINDINGS OF FACT

1. Leadership Counsel for Justice and Accountability has made a substantial contribution to D.18-08-015.
2. The requested hourly rates for Leadership Counsel for Justice and Accountability's representatives, as adjusted herein, are comparable to market rates paid to experts and advocates having comparable training and experience and offering similar services.
3. The claimed costs and expenses are reasonable and commensurate with the work performed.
4. The total of reasonable compensation is \$6,587.50.

CONCLUSION OF LAW

1. The Claim, with any adjustment set forth above, satisfies all requirements of Pub. Util. Code §§ 1801-1812.

ORDER

1. Leadership Counsel for Justice and Accountability shall be awarded \$6,587.50.
2. Within 30 days of the effective date of this decision, Pacific Gas and Electric Company, Southern California Gas Company, San Diego Gas & Electric Company, and Southwest Gas Corporation shall pay Leadership Counsel for Justice and Accountability their respective shares of the award, based on their California-jurisdictional gas revenues for the 2018 calendar year, to reflect the year in which the proceeding was primarily litigated. If such data is unavailable, the most recent gas revenue data shall be used. Payment of the award shall include compound interest at the rate earned on prime, three-month non-financial commercial paper as reported in Federal Reserve Statistical Release H.15, beginning December 22, 2018, the 75th day after the filing of Leadership Counsel for Justice and Accountability's request, and continuing until full payment is made.
3. The comment period for today's decision is waived.

This decision is effective today.

Dated _____, at Los Angeles, California.

APPENDIX**Compensation Decision Summary Information**

Compensation Decision:		Modifies Decision?	No
Contribution Decision(s):	D1808015		
Proceeding(s):	R1706015		
Author:	ALJ Cooke		
Payer(s):	Pacific Gas and Electric Company, Southern California Gas Company, San Diego Gas & Electric Company, and Southwest Gas Corporation.		

Intervenor Information

Intervenor	Date Claim Filed	Amount Requested	Amount Awarded	Multiplier?	Reason Change/Disallowance
Leadership Counsel for Justice & Accountability	October 8, 2018	\$6,657.50	\$6,587.50	N/A	Due to a miscalculation in total fee and applying cola.

Hourly Fee Information

First Name	Last Name	Attorney, Expert, or Advocate	Hourly Fee Requested	Year Hourly Fee Requested	Hourly Fee Adopted
Phoebe	Seaton	Attorney	\$325	2017	\$325
Phoebe	Seaton	Attorney	\$325	2018	\$330
Michael	Claiborne	Attorney	\$315	2018	\$315
Nikita	Daryanani	Advocate	\$170	2017	\$170
Olivia	Faz	Paralegal	\$150	2017	\$150
Olivia	Faz	Paralegal	\$150	2018	\$150
Kaylon	Hammond	Expert	\$85	2018	\$85
Michael	Claiborne	Attorney	\$157.50	2018	\$157.50

(END OF APPENDIX)